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# Legal Nature of Insanity: An Investigative Analysis of its use as a Defense

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MAYANK CHOWDHARY<sup>1</sup>

## ABSTRACT

*Overseeing the largest democracy in the world, India's legal system has the difficult challenge of merging many racial groups, socioeconomic levels, and castes. The defence of insanity, as stated in the Indian Penal Code, exempts mentally sick persons from prosecution; nevertheless, this clause has been exploited, allowing some people to escape punishment for crimes they have committed without really being mentally ill. This research investigates the current effectiveness of the insanity defense and explores more precise methods or evaluations. Examining perspectives on the insanity defense from other countries can offer valuable insights. Although individuals acquitted due to insanity are often directed to the mental health system, treatment for their condition rarely prevents future criminal behavior. In contrast, mentally sound offenders face punishment, deterrents, societal protection, and rehabilitation. Supporting the "Relevance ratio" for evidential relevance and quality control in expert testimony, this study sheds light on the historical evolution of the insanity defense within the Indian legal system. It suggests that legal assumptions about voluntary conduct may need to be reassessed in line with advancements in neuroscience to align better with current scientific understanding. Essentially, this study aims to propose modifications and alternative approaches by scrutinizing the subtleties of India's insanity defense system and integrating perspectives from other international perspectives and neuroscience research. Even though the mental health system is usually consulted for criminals found not guilty by reason of insanity, therapy for their illness rarely discourages them from committing crimes again. Conversely, sane criminals deal with punishment, deterrents, protection from society, and rehabilitation. This paper emphasizes the historical evolution of the insanity defense within the Indian judicial system, supporting the "Relevance ratio" for evidential relevance and quality control on expert testimony. It suggests that in light of recent advancements in neuroscience, legal presumptions regarding voluntary conduct may need to be reexamined in order to better align with current scientific understanding. Essentially, this study aims to propose modifications and alternative approaches by scrutinizing the subtleties of India's insanity defense system and integrating perspectives from other international perspectives and neuroscience research.*

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**Keywords:** *Criminal Insanity, Defense, Criminal Law, Legal Foundations, Mental Illness, Public Perceptions.*

## I. INTRODUCTION

Under the Indian legal system, the "Insanity Defence" offers a defense against criminal culpability by arguing that the accused was mentally ill at the time of the offense and was therefore unable to comprehend the nature of their actions. However, the onus of proof rests with the accused, who needs to present proof that amounts to a "preponderance of the evidence." It is insufficient to merely demonstrate mental disease. Under Section 84 of the Indian Penal Code<sup>2</sup>, sometimes referred to as the insanity legislation, people with mental illnesses are shielded from criminal liability because they are incapable of understanding their own conduct because they lack the guilty mentality.<sup>3</sup>

Though the goal was to keep people from being punished who were not guilty because of mental illness, this defence has been abused and is now more of a justification than a reason for illegal behaviour. The Indian Constitution's natural justice and human rights values are in line with the idea of legal insanity, which spares mentally ill defendants of punishment if their sickness prevents them from understanding their conduct.

Nonetheless, discussions around the insanity defence have become more heated on a worldwide scale, and several US states have lately eliminated it due to abuse being identified as a loophole. It is commonly known among the public that this abuse occurs when people who do not have a mental illness commit crimes and utilise their insanity as a defence.

More research is necessary since the application of insanity as a defence in Indian criminal law is still controversial. Research looking at the clinical characteristics of inmates has shown that a significant portion may have been diagnosed with mental or drug use disorders; this highlights the complexity of the problem and calls for more research.

### (A) **Research Design:**

#### **1. Research Problem**

The evaluation of the criminal insanity defense's ability to balance justice and mental health

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<sup>2</sup>Act of a person of unsound mind.—Nothing is an offence which is done by a person who, at the time of doing it, by reason of unsoundness of mind, is incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law.

<sup>3</sup> Safiyat Naseem, INSANITY DEFENSE – A LOOPHOLE FOR CRIMINALS? HISTORY, CASES, ARTICLE : IPC, Writing

Law, <https://www.writinglaw.com/insanity-defense-a-loophole-for-criminals-history-casesarticle-ipcnotes>

care is a problematic issue. Fairly evaluating instances involving mental illness raises ethical questions, and the public's opinion affects the defense's acceptability in court. This problem stems from the need to provide appropriate treatment, provide fair mental status evaluations, and reconcile the public's perception of mental health with the criminal justice system's knowledge of it.

## **2. Research Questions:**

- i How does the criminal insanity defense operate within national and international legal contexts?
- ii What are the ethical and moral dilemmas associated with using the insanity defense?
- iii How have recent legal reforms and landmark court cases shaped the landscape of the Criminal insanity defense, and what are their implications for future cases?

## **3. Research Objectives:**

The objectives of this study are:

- i To examine the legal basis and historical evolution of the criminal insanity defense.
- ii To evaluate the ethical considerations associated with employing this defence in the criminal justice system.
- iii To explore the effects of public attitudes on the use of the insanity defense.

## **(B) Hypothesis**

The criminal law application of the insanity defence has a number of ethical challenges and is susceptible to public opinion. However, it is essential to upholding the principles of justice and equity within the legal system.

## **(C) Literature Review**

There have been misconceptions regarding the insanity defense, which Silver Cirincione<sup>3</sup> and Steadman (1995) cleared up. They made it obvious that receiving mental health treatment is the main objective rather than avoiding jail time and emphasized the defense's acceptable application in specific circumstances.

"Moran's 1985<sup>4</sup> paper examines the trial of James Hadfield and connects it to the development of the insanity claim as a means of defence. It falls short of providing enough attention to the

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<sup>4</sup> Moran, R. (1985) 'The origin of insanity as a special verdict: The trial for treason of James Hadfield (1800)', *Law & Society Review*, 19(3), p. 487

case's long-lasting impact on the judicial system's ideas of mental health, thus more research is required to gain a thorough understanding."

"The 1905 article in the *British Medical Journal*<sup>5</sup> highlights the Council's limited legislative authority while examining the difficulties the Council faced in handling cases of insanity. But it doesn't examine how this limited power affects society overall, so further research is necessary to see how it actually affects mental health policies and comparisons.

"The possible implications of insanity as a tort defence and the Council's restricted authority are covered in Goudkamp's 2011<sup>6</sup> paper, "Insanity As A Tort Defence." In order to determine its impact on liability establishment, it implies that more study is necessary to examine the practical difficulties and outcomes in various legal frameworks and historical settings."

"In order to dispel myths regarding fraudulent claims, Covey<sup>7</sup> advocates in his 2009 study, "Criminal Madness: Cultural Iconography And Insanity," for the addition of insanity as a tort defence. It draws attention to how cultural representations impact decisions made by courts on insanity defences and, in order to get a deeper knowledge of this dynamic interplay, it advocates for empirical research."

"Potential ramifications are highlighted in this 1981 *Harvard Law Review*<sup>8</sup> article that explores the legal standards and processes for sending insanity acquittees to mental facilities. To fully understand the intricate cultural and legal difficulties surrounding crimes committed by insanity acquittees, more research is necessary as this study does not examine the postcommitment results."

"Silver's 1995<sup>9</sup> work, "Punishment Or Therapy?," highlights the need for a better balance between punishment and treatment by examining policies and periods of detention for insanity acquittees. It does not, however, go far enough into the psychological and medical facets of treating mentally ill criminals, indicating room for more research in this field."

## **II. ORIGIN OF INSANITY DEFENCE**

Edward Drummond was the incorrect guy in this instance since he was killed by a man by the

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5 *BMJ* (1905) 'Insanity and murder', *The British Medical Journal*, 330(7494), p. 788.

6 Goudkamp, J. (2011) 'Insanity as a tort defence', *Oxford Journal of Legal Studies*, 31(4), pp. 727–754.

7 Covey, R.D. (2009) 'Criminal Madness: Cultural Iconography and Insanity', *Stanford Law Review*, 61(6), pp. 1375–1427

8 *The Harvard Law Review Association* (1981) 'Commitment following an insanity acquittal', *Harvard Law Review*, 94(3), p. 605.

9 Silver, E. (1995) 'Punishment or treatment? comparing the lengths of confinement of successful and unsuccessful insanity defendants.', *Law and Human Behavior*, 19(4), pp. 375–388.

name of McNaughton.<sup>10</sup> The McNaughton Test was developed by the British Courts of R. C. McNaughton and is based on currently enacted insane legislation as well as the Indian Penal Code. Because of the unsafe attitude, the judge decided to acquit. The jury nonetheless deemed him mad and committed him to a metaphysical institution in spite of this. In 1843, the House of Lords produced a five-point plan in reaction to this decision. These five concepts were taken to constitute McNaughton's laws. There have been recommendations made as follows:

- a) The prisoner is assumed to be in good health unless and until otherwise demonstrated in a court of law.
- b) A idiot who understands what they are doing when they commit a crime will face consequences.
- c) that the criminal would be incapable of understanding the nature and repercussions of his conduct in defence of ignorance due to his insanity.
- d) The alleged victim needs to be having a real hallucination.
- e) A jury is charged with deciding whether or not a person is mad under English law.
- f) The regulation on the preservation of insanity set forward a few ideas. The regulation on the preservation of insanity set forward a few ideas. The guidelines emphasise how important it is for an accused person to be "comprehensible" while assessing whether or not they have broken any laws. It's a check that indicates what is accurate and inaccurate.

### **(A) History**

The insanity defence has undergone substantial evolution over time, with roots in archaic legal doctrines. It was first based on the idea of mens rea, or a "guilty mind," and it addressed whether or not a person understood that their acts were wrong. With the introduction of the "wild beast test" in 1724, which demanded complete mental deprivation equivalent to that of a newborn or a wild animal, the first official insanity defence was born<sup>11</sup>. This test was in use in England for a century prior to the establishment of the M'Naghten rule.

The three prongs of the M'Naghten rule—which originated from a case involving Daniel M'Naghten—are the existence of mental disease, the incapacity to comprehend the nature of the conduct, and the ability to distinguish good from evil. Variations, such as the irresistible impulse

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10 Verma, A. (2020) *Applicability of m'naghten rules in contemporary situations*, *iPleaders*. Available at: <https://blog.iplayers.in/applicability-mnaghten-rules-contemporary-situations/> (Accessed: 23 November 2023).

11 Huss, M. T. (2009). *Forensic Psychology: Research, Clinical Practice, and Applications*. Wiley-Blackwell <sup>12</sup> Grøndahl P, Ikdahl SE, Dahl AA. A study of forensic psychiatric screening reports and their relationship to full psychiatric reports. *J Forensic Psychiatry Psychology* 2007;18:331-41.

test, were developed in response to criticism of the original test's limited application, recognising that people may act even when they know they should not.

In its Model Penal Code, the American Law Institute (ALI) developed a separate criteria that placed emphasis on an individual's incapacity to understand crime or comply with legal obligations because of a mental illness or other defect. Later changes, such as the Insanity Defense Reform Act of 1984, shifted the emphasis from volitional to emotional and cognitive characteristics.<sup>12</sup>

An important turning point in the development of insanity defence legislation was the Hinckley Trial. The attempted assassination of President Reagan by John Hinckley led to important legislative changes. Defense psychiatrists said Hinckley was insane, citing psychosis and the idea that he was playing out a movie screenplay, but government psychiatrists declared him legally sane. After Hinckley was ultimately declared not guilty on all charges due to insanity, Congress and a number of states changed the standard of evidence for insanity to the defence, with some states creating new judgments such as "guilty but mentally ill" or even doing away with the defence completely.<sup>12</sup>

In one form or another, the insanity defence has survived throughout history, leading successive nations to reevaluate their legal norms in the wake of cases such as Hinckley, even if the fundamental assessment guidelines have remained unchanged. These changes highlight the continuous controversies and difficulties pertaining to the use of insanity defence statutes.

### **III. CURRENT INDIAN LEGAL SYSTEM**

The premise that individuals are morally responsible actors rather than evildoers forms the basis of modern criminal law. Two requirements must be met beyond a reasonable doubt for a charge to be brought against a person: <sup>13</sup>

- (a) The one who committed the offence (actus reus)
- (b) The person chose to act in this manner based on their free will, purpose, and reason (mens rea).

Establishing mens rea demands more effort than establishing actus reus. As a result, they attempt to create a sense of madness over their genuine motives. Modern criminal law is built

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<sup>12</sup> Melville JD, Naimark D. Punishing the insane: The verdict of guilty but mentally ill. *J Am Acad Psychiatry Law* 2002;30:553-5.

<sup>13</sup> Math, S. B., Kumar, C. N., & Moirangthem, S. (2015). Insanity Defense: Past, Present, and Future. *Indian journal of psychological medicine*, 37(4), 381–387, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4676201/> <sup>15</sup> Somasundaram O. The Indian lunacy act, 1912: The historic background. *Indian Journal Psychiatry* 1987

on the idea that people are morally responsible agents, not evildoers. To be charged with a crime, two elements must be shown beyond a reasonable doubt:

(a) the perpetrator of the act (actus reus) <sup>15</sup>

(b) The individual makes the decision to conduct in this way with free will, purpose, and reason. (mens rea).

It is more difficult to establish mens rea than actus reus. As a result, they try to project a sense of madness in order to conceal their genuine goals. The court may consult psychiatrists to determine if a specific mental illness impaired an individual's capacity to develop the purpose required to be found legally accountable. The duration of the offense is an important consideration in determining the accused's mental state. There are those who suffer from mental illnesses, that much is certain. Additional considerations include:

The motivations for the crime, the accused's prior mental health concerns, his state of mind at the time of the act, and the circumstances surrounding the incident all throw light on his mental condition.

In India, Section 84 of the Indian Penal Code, which addresses crimes committed by mentally ill people, recognizes the defence of insanity. This clause includes a provision that allows the accused to utilize insanity as a defence to criminal liability. "Nothing in a crime done by a person who, because of unsoundness of mind, at the time of the conduct, is incapable of grasping the nature of the conduct, or that he is performing any act which is either inappropriate or contrary to law," reads the section. The current legislation lacks a definition for "unsoundness of mind." However, this phrase has mostly been associated with insanity by the courts. Nonetheless, there is no universally accepted definition for "insanity," and the term can apply to a broad spectrum of mental diseases. Criminal culpability does not always shield those with mental illnesses from punishment. As such, there has to be a distinction made between medical and legal insanity. In this case, legal insanity denotes that the offender had a mental illness and was unable to think clearly at the time of the offense. The behavior is described in Section 84 of the Indian Penal Code, which also states that he is acting illegally or against the law.

#### IV. CASE LAWS

1. **Surendra Mishra versus State of Jharkhand**<sup>14</sup> case, the Supreme Court ruled that proving legal insanity—as opposed to medical insanity—is the burden of proof for an

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<sup>14</sup> Surendra Mishra v. State of Jharkhand. 2011, 11 SCC 495.

<sup>17</sup> Sudhakaran v State of Kerala. 2010 (10) SCC 582



accused individual hoping to be exonerated of guilt for an act under Section 84 of the Indian Penal Code. Furthermore, it said that the phrase "unsoundness of mind" has been used interchangeably with insanity for a long time but is not defined in the IPC. However, the concept of insanity changes based on the context and relates to various degrees of mental disorders. Not everyone who suffers from a mental condition is immune from criminal prosecution. Section 84 of the IPC cannot be justified by the accused's arrogance, strangeness, irascibility, and brain damage alone. It also cannot be justified by the fact that his physical and mental illnesses have affected his intellect and emotions, that he engages in strange behaviors, that he occasionally experiences fits of insanity, that he experiences epileptic fits and exhibits abnormal or queer behavior, or by any other fact.

2. **Sudhakaran v State of Kerala. 2010**<sup>17</sup> The Supreme Court stated in its ruling that even though the accused had some mental instability both before and after the incident, it is not possible to conclude, on the balance of probabilities, that the appellant did not know the nature of his act at the time it was committed—that is, that it was either illegal or wrong—and thus rejected the insanity defense.

3. In **Jai Lal v. Delhi Administration**<sup>15</sup> The accused was found guilty by the court despite having a medical history of insanity that was supported by evidence. The accused's subsequent actions, such as hiding the weapon, bolting the door to avoid being arrested, and fleeing afterward, were considered by the court to be signs of guilt awareness.

4. **Dahyabhai Chhaganbhai Thakker v. State of Gujarat. 1964**,<sup>16</sup> When the offense was committed is the critical moment for figuring out the accused's mental state. One of the facts under Section 84 IPC is the individual who is mentally sick. The reason behind the crime, the accused's prior mental health history, his mental state at the time of the offense, and the events that followed the occurrence that may have shed light on his mental state are additional facts that must be taken into consideration.

5. **Burden of proof in insanity defense** Unless the opposite is demonstrated, every individual is considered to be sane and to have a reasonable degree of reason to be accountable for his actions under the law.<sup>17</sup> It is assumed that each person is aware of the inevitable repercussions of his actions. In the same way, it is assumed that everyone is aware of the law. These facts do not need to be proven by the prosecution.<sup>18</sup>

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15 Jai Lal v. Delhi Administration. AIR 1969 SC 15

16 Dahyabhai Chhaganbhai Thakker v. State of Gujarat. 1964, 7SCR 361.

17 State of M.P. v. Ahmadull. AIR 1961 SC 998

18 Bapu @ Gajraj Singh vs State of Rajasthan. Appeal (crl.) 1313 of 2006. Date of Judgement on 4 June, 2007 <sup>22</sup>

- The conduct of the crime and the insanity defence are the two components of proving an offence in an insanity defence.
- The commission of crime and insanity defence are the two components of proving an offence in an insanity defence.

The prosecution is always in charge of providing evidence that an offence was committed, and this responsibility never changes. To establish the same beyond a reasonable doubt, the prosecution must prove it. As to Section 105 of the Evidence Act<sup>22</sup>, the accused bears the responsibility of demonstrating the lack of circumstances supporting the insanity defence (Section 84 IPC), and the court will assume their absence.<sup>19</sup> The accused must establish, by the presentation of evidence to the court, including expert testimony, oral and written testimony, confessions, presumptions, and even prosecution testimony, that he was not able to understand the nature of the conduct or that what he was doing was illegal or immoral.<sup>24</sup> The Supreme Court has determined that the actual time of the crime is the critical moment at which insanity of mind must be proven, and it is the appellant's responsibility to provide evidence of this in order to invoke the benefits of Section 84. In *Dahyabhai Chhaganbhai Thakker*<sup>20</sup> against State of Gujarat, this court ruled that even in cases where the accused could not prove beyond a reasonable doubt that he was mad at the time of the act, The court might be allowed to acquit the accused on the grounds that the prosecution's general burden of proof was not met if the evidence presented to the court raises reasonable doubts in the court's mind about one or more of the offense's elements, including the accused's mens rea. Despite having the burden of proof, the accused need only establish their case by a preponderance of the evidence rather than beyond a reasonable doubt. He is not burdened with a greater burden of proof than a party to a civil process.

## V. THE DRAWBACKS OF THE INDIAN LEGAL SYSTEM

An established legal doctrine that has been applied for many years in many different jurisdictions—including the United States, Germany, Argentina, and Thailand—the Insanity Defense has come under fire for its abuse and has since been repealed or modified in a number of these nations. The fundamental intent of the defense has been undermined by cases where

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When a person is accused of any offence, the burden of proving the existence of circumstances bringing the case within any of the General Exceptions in the Indian Penal Code (45 of 1860), or within any special exception or proviso contained in any other part of the same Code, or in any law defining the offence, is upon him, and the Court shall presume the absence of such circumstances.

<sup>19</sup> *State of Rajasthan v. Shera Ram @ Vishnu Dutta*. 2012, 1SCC602

<sup>24</sup> *Elavarasan v State RbIoP*. 2011 (7) SCC 110.

<sup>20</sup> *Dahyabhai Chhaganbhai Thakker v. State of Gujarat*. 1964, 7SCR 361

violent perpetrators were found not guilty by using this defense. The judicial system presents a significant obstacle in terms of the burden of demonstrating insanity. Medical diagnosis may point to mental disease, but it can be difficult to put this in words that are meaningful to the law. As a result, even though they may have underlying psychiatric issues, people with mental health difficulties frequently find themselves found guilty.

Numerous problems and inequalities within the Indian legal system have surfaced. Data analysis reveals biases in the diagnosis of mental diseases, including schizophrenia, where women are more likely to successfully file for insanity petitions. This raises worries about the perpetuation of gender stereotypes. These prejudices are greatly exacerbated by incomplete documentation and restricted access to psychiatric care for marginalized communities, which makes it difficult to properly identify and evaluate mental health issues.

Moreover, insanity plea court hearings in India expose structural weaknesses. Physician views and proof of mental illness previous to the offense are extensively relied upon by lower courts. But this procedure is frequently incomplete, which might result in judgments that are skewed. Furthermore, a worrying tendency indicates that higher courts are less likely to reverse judgments from lower courts, which may indicate issues with the appeal procedure.

Forensic psychiatry within the criminal court system needs urgent revision, according to experts and the Indian judiciary. Certain cases—like the Bolabhai Hirabhai case—have brought attention to the shortcomings of the current mental health legislation and emphasized how important it is to use forensic psychiatry more frequently in court. When taken as a whole, these issues highlight the many moving parts and flaws in the insanity defence process. Comprehensive reforms that support forensic psychiatry in court systems are desperately needed. These changes seek to remove systemic biases and flaws that are common in legal procedures while guaranteeing justice, precision, and equity in assessing the guilt of people with mental health issues.

## **VI. CRITICISM OF M'NAGHTEN RULE**

The M'Naghten Rule has been refuted on multiple occasions. These are a few of the most important explanations:

1. It has been demonstrated that insanity results from an inability to distinguish between good and wrong. However, in certain medical circumstances, a person may feel motivated to do evil even when they are aware of "what is good."<sup>21</sup> An "irresistible impulse" is what happens

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<sup>21</sup> A detailed analysis of the concept of rule of insanity under Indian law with the help of M'Naughten's case verdict (no date) *Legal Service India - Law, Lawyers and Legal Resources*. Available at:

when someone can't resist acting improperly. People with manias and paraphilias, for example.

2. The rule has come under fire for giving the accused an easy way out. An individual with a serious mental illness can easily avoid criminal responsibility, regardless of the extent to which their sickness had a role in the commission of the crime. The legal concept of insanity and the medical criterion for insanity have diverged in a number of instances

3. The M'Naghten rule only provides a legal definition of insanity; it is criticized for lacking a medical description as well. Terminologies such as temporary or permanent insanity are not defined in the standards. A person may have a transient ailment that manifests itself sporadically over the course of their lifetime. People with serious mental diseases are easily protected from criminal prosecution, regardless of the degree to which their sickness played a role in the crime being committed.

4. There have been other instances where the legal definition of insanity and the medical criterion for insanity diverge. It is argued that the M'Naghten rule only establishes a legal definition of insanity, not a medical one. Terminologies such as temporary or permanent insanity are not defined in the standards. There might be a temporary illness that shows up at various points in a person's life.

## **VII. INTERPRETATION OF INSANITY AS DEFENSE IN OTHER COUNTRIES**

Over time, the legal environment around the Insanity Defense has undergone significant changes. While some countries have continued to utilize this legal protection, others have eliminated it due to its widespread abuse. There has been a noticeable shift in certain jurisdictions, notably Thailand, Germany, Argentina, and parts of England, away from the use of the Insanity Defense. This revision was prompted by the shocking misuse of this defense strategy, which has been exposed by cases where violent criminals have been judged not guilty despite their insanity. By raising questions about the underlying principles upon which this law was initially passed, such occurrences have eroded trust in the way the statutory framework is being implemented. Consequently, these nations have thoroughly reexamined their legislative systems, leading to a reconsideration or outright rejection of the Insanity Defense. This signifies a significant worldwide reevaluation of the definition and application of the legal standards for mental capacity within the framework of criminal law.

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<https://www.legalserviceindia.com/legal/article-5275-a-detailed-analysis-of-the-concept-of-rule-of-insanityunder-indian-law-with-the-help-of-m-naughten-s-case-verdict.html> (Accessed: 23 November 2023).

## VIII. REFORMS & RECOMMENDATIONS

The patient's medical history, past medical history, family and personal history, premorbid personality, and substance abuse must all be thoroughly examined in today's judicial system. More importantly, a detailed examination of his perception, behavior, emotions, and thought processes prior to, during, and following the incident has to be conducted. The type of offense committed and the accused's degree of legal knowledge must be ascertained. If a cognitive functioning assessment is required, open-ended questions rather than leading questions should be used. This leads to an increase in the importance of psychiatry. However, at this time, India does not have any recognized institutes or degree programs in forensic psychiatry. Consequently, the development of such educational institutions is important in order to meet the demands of the modern day. Human rights workers, police officers, jail personnel, and judges should all have basic training or instruction in forensic psychiatric principles. Though the new mental healthcare act of 2017 in India sought significant modifications in the field of rehabilitation for the criminally ill (which had decriminalized suicide). Nonetheless, issues with the insanity defense continue to exist on a global and national scale. When it comes to the insanity defense, it is commonly known that countries with an adversarial criminal court system do worse than those with an inquisitorial one. A board composed of professionals with credentials in human rights, psychiatry, and justice still handles the plea more successfully in Scandinavian countries. Since humans still lack mental faculties, the human situation is far from simple, particularly when it comes to law. Combining legal and scientific advancements is the only way to guarantee that the oldest defense argument in human history has a better future.

## IX. A CHANGE IN THE LEGAL TEST

What we need is a shift in perspective; rather than basing our definition of insanity only on the M'naghten Rules, we ought to consider alternative theories as well, such as:

The test of the Model Penal Code In the latter half of the 20th century, the Model Penal Code Test was created. Compared to other examinations offered at the time, this one was designed to be far more flexible. This exam suggests that for the test to demonstrate that the subject was crazy at the time the crime was committed, one of two requirements needs to be met.<sup>22</sup>

The person lacks the ability to understand the repercussions of his conduct. Currently, there is no way to change his behavior to prevent future harm to society. The examinations look for any mental illnesses the subject may have and investigate how such illnesses may have contributed

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22 Verma, A. (2020) *Applicability of m'naghten rules in contemporary situations*, *iPleaders*. Available at: <https://blog.ipleaders.in/applicability-mnaghten-rules-contemporary-situations/> (Accessed: 23 November 2023).

to the person's criminal behavior. Examining Irresistible Impulses The Irresistible Impulse Test asserts that a person claiming insanity as a defense should not be held accountable for their acts even if they were fully aware of them because they were unable to control their movements, which would indicate a lack of mens rea. Since it was developed in response to criticisms of the M'Naghten Rules The statement posits that the McNaughton rule is not applicable in situations where an individual possesses awareness of their actions, but is unable to regulate their impulses owing to mental trauma, disorder, or any other cause. b) The Insanity Durham Test This exam also highlights the fact that if a person is mentally sick, they shouldn't be held accountable. As a result, it indicates that there are no malicious intentions. Consequently, since there is simply action and no purpose, everything this individual does is not criminal. Only New Hampshire is eligible to use this test.

## **X. CONCLUSION**

Nowadays, the Insanity Defense has become a standard strategy used by offenders who want to avoid facing legal repercussions for their crimes. Determining a person's mental state at the exact moment of a crime is a difficult task. The Indian judicial system, marked by loopholes and a lack of clarity, exacerbates this issue, reducing the defence to manipulation of language rather than a genuine assessment of mental capacity. This situation raises substantial concerns when an accused knowingly commits a crime but manages to avoid accountability, prompting scrutiny from rational observers.

As a result, the Insanity Defense Law has strayed from its intended use and is now being used by criminals to avoid punishment. Legislation that is explicit and thorough assessments are required to address these shortcomings. Making a careful distinction between mentally ill individuals and violent offenders might be a critical first step toward correction. Adopting improvements necessitates that governments pass strict legislation to control these kinds of incidents, which calls for long-overdue and significant revisions to these clauses.

Courts concentrate on protecting society from these people's potential risks, whereas psychiatrists prioritise the care of their particular patients. In order to prove someone's incapacity to understand what they are doing or that their actions are illegal, psychiatrists must carefully evaluate all relevant facts and evidence before a court of law while presenting an insanity defense.

Essentially, one of the most common criminal defenses nowadays is insanity, which leads judges to correctly determine the mental state of the accused at the time of the act. The inadequacies present in the Indian court system have unintentionally weakened this defense by

giving wordplay precedence over a thorough analysis. Restructuring laws and evaluations to address this difficult issue is necessary, as it draws a clear distinction between criminal intent and mental incapacity—a crucial first step towards full change. States must pass strong laws to address these issues before these improvements can be implemented, indicating the long overdue need for significant change.

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